

**STATE OF NEW JERSEY**

***Board of Public Utilities***

*Two Gateway Center*

*Newark, NJ 07102*

*www.bpu.state.nj.us*

|                                    |                           |
|------------------------------------|---------------------------|
| IN THE MATTER OF THE PETITION OF ) | <u>TELECOMMUNICATIONS</u> |
| CONVERSENT COMMUNICATIONS OF )     |                           |
| NEW JERSEY, LLC FOR APPROVAL OF )  | <u>ORDER OF APPROVAL</u>  |
| A CREDIT FACILITIES AGREEMENT )    |                           |
| AND RELATED AGREEMENTS AND )       | DOCKET NO: TF02090644     |
| ENCUMBRANCES                       |                           |

Riker, Danzig, Scherer, Hyland & Perretti LLP, by James C. Meyer, Esq. And Michael A. Schmerling, Esq. For Converseant Communication of New Jersey, LLC.

Fred S. Grygiel, Chief Economist, Mark C. Beyer, Manager, Office of the Economist on behalf of the Staff of the Board of Public Utilities

BY THE BOARD:

Converseant Communications of New Jersey, LLC (Converseant-NJ or Petitioner), a public utility of the State of New Jersey, by petition filed with the Board of Public Utilities (Board) on September 10, 2002 and supplemented up to October 23, 2002, pursuant to N.J.S.A. 48:3-7 and N.J.S.A. 48:3-9, requests nunc pro tunc approval as of March 9, 2001 of a credit facilities agreement and related agreements and encumbrances.

Converseant-NJ is a New Jersey limited liability company with corporate offices located at 313 Boston Post Road West, Suite 140, Marlboro, Massachusetts 01752. Converseant-NJ is a wholly owned subsidiary of Converseant Communications (Converseant-Parent), a Rhode Island limited liability company. Converseant-NJ is authorized to provide local exchange and interexchange telecommunications services in New Jersey pursuant to the Board's Order of Approval in Docket No. TE00020073 issued on September 12, 2000. Affiliates of Petitioner are authorized to provide competitive local exchange services in The Mid-Atlantic and New England Regions of the United States.

Petitioner seeks nunc pro tunc approval of a credit agreement which establishes, among other things, a \$30 million revolving credit facility and \$75 million delayed draw term loan facility. The facilities mature on December 31, 2007. The Petitioner seeks approval to act as a guarantor in the facilities. In addition, the facilities have been secured by security interests, mortgages and encumbrances in substantially all the assets of Converseant-Parent and all current and future subsidiaries, including Petitioner.

Petitioner states that the proceeds of loans under the credit agreement are used: (i) to refinance existing indebtedness of Converseant-Parent and subsidiaries; (ii) to fund permitted capital expenditures required to expand the telecommunications business of Converseant-

Parent and its subsidiaries; (iii) for working capital; and (iv) for other general business purposes as provided in the Credit Agreement. Conversent-NJ further states that approval of this petition will serve the public interest by strengthening its ability to bring competitive telecommunications services to consumers in New Jersey.

Conversent-NJ requests approval on a nunc pro tunc basis effective March 9, 2001, the date the Credit Agreement was executed. Conversent-NJ advises that its failure to obtain prior approval to enter the Credit Agreement and related agreements and encumber its assets was inadvertent, was discovered during a review of a recent equity investment, and was promptly brought to Board Staff's attention. Conversent-NJ states it has endeavored to timely provide information to the Board as evidenced by the recent filings of notice of reorganization, tariff revisions and its Quarterly Report.

After review, the Board FINDS except for not having obtained prior Board approval, that the transactions made, are in the public interest, and approves the purposes thereof. Therefore, the Board HEREBY APPROVES and AUTHORIZES on a nunc pro tunc basis effective March 9, 2001 the credit agreement, related agreements, mortgages and the encumbrance, upon the terms and conditions set forth in the Guarantee and Security Agreement and related Credit Documents, of Conversent-NJ's assets, as set forth in Conversent-NJ's petition dated September 4, 2002. The Board also APPROVES and AUTHORIZES the enforcement by the Agents and/or lenders, as provided by the Guarantee and Security Agreement, of their rights and remedies against Conversent-NJ in case of a Default under the Credit Agreement. Finally, the Board AUTHORIZES Conversent-NJ to take further actions consistent with or required by the Credit Agreement and related agreements.

This Order is issued subject to the following provisions:

1. Petitioner shall semi-annually file with the Board a statement setting forth: (a) the amount of indebtedness issued under this Order, and (b) the extent to, and in detail, the manner in which the proceeds thereof have been disbursed.
2. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or any other matters affecting the Petitioner.
3. This Order shall not be construed as directly or indirectly fixing for any purpose whatsoever any value of the tangible or intangible assets now owned or hereafter to be owned by Petitioner.

4. Notwithstanding anything to the contrary in the documents to be executed pursuant to the financing transactions or other supporting documents, a default or assignment under such agreement does not constitute automatic transfer of Petitioner's assets. Board approval must be sought pursuant to N.J.S.A. 48:1-1 et seq., where applicable.

DATED: November 22, 2002

BOARD OF PUBLIC UTILITIES  
BY:

[SIGNED]  
JEANNE M. FOX  
PRESIDENT

[SIGNED]  
FREDERICK F. BUTLER  
COMMISSIONER

[SIGNED]  
CAROL J. MURPHY  
COMMISSIONER

[SIGNED]  
CONNIE O. HUGHES  
COMMISSIONER

[SIGNED]  
JACK ALTER  
COMMISSIONER

ATTEST:

[SIGNED]  
KRISTI IZZO  
BOARD SECRETARY